

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-2098

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X

PEDRO ARROYO and CHRISTOPHER MCCORMACK, :

Plaintiffs-Appellants, :

-against- :

PETER M. SCHAEFER, Former Deputy Warden in :

Command; RALPH SUMOWITZ and PATRICK MAGNER, No. 76-2098 :

Assistant Deputy Wardens; KENNETH FERGUSON, :

CONSTANTINE MELLON and PAUL FELTMAN, :

Captains; JOSEPH OCHMANN and ROY SCHUH, :

Correction Officers; and DR. KARP, Institu- :
tional Physician, :

Defendant-Appellees. :

-----X

B
P/S

APPENDIX

WILLIAM E. HELLERSTEIN
MARJORIE M. SMITH
Attorneys for Plaintiffs-Appellants
The Legal Aid Society
Prisoners' Rights Project
15 Park Row - 19th Floor
New York, New York 10038
[212] 577-3530

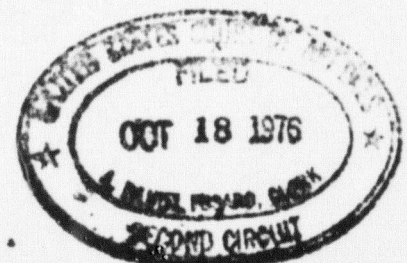


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Jury demand date:

72 W. 4624

U. S. Form No. 106 Rev.

TITLE OF CASE

ATTORNEYS

RO ARROYO, JERRY THOMAS, CHRISTOPHER
ORMACK, LANCASTON DENNIS,

Plaintiffs,

-against-

JAMIN MALCOLM, Commissioner of Correction
the City of New York, ARTHUR RUBIN, Warden:
hattan House of Detention for Men, PETER
SCHAEFER, Former Deputy Warden in Command,
PH SUMOWITZ and PATRICK MAGNER, Assistant
uty Wardens, KENNETH FERGUSON, CONSTANTINE:
LON and PAUL FELTMAN, Captains, JOSEPH
MANN and ROY SCHUH, Correction Officers,
KARP, Institutional Physician, and JOHN
S #1-10, Correction Officers, Manhattan
se-of Detention for Men,

Defendants.

For plaintiff:

PEDRO ARROYO
125 White Street
NYC 10013

For defendant:

WILLIAM HELIERSTEIN
Legal Aid Society
Prisoners Rights Project
115 Fifth Ave
NYC (for deft)

| STATISTICAL RECORD | COSTS | DATE | NAME OR RECEIPT NO. | REC. | DISB. |
|------------------------------|--------------|------|---------------------|------|-------|
| S. 5 mailed x | Clerk | 1/12 | | | |
| S. 6 mailed 07-23-76 | Marshal | | | | |
| asis of Action: Violation of | Docket fee | | | | |
| il Rights 42 USC 1983 | Witness fees | | | | |
| tion arose at: | Depositions | | | | |

SE

JUDGE KNAPP,

PRO SE

PROCEEDINGS

Date Order or
Judgment Noted

Complaint and issued summons.
 Filed Order that petitioner is permitted to proceed in forma pauperis without prepayment of fees. EDELSTEIN, J.
 Filed Summons and entered marshal's return served on Manhattan House of Detention for Men on 11-15-72.
 Filed deft's notice of motion Re: dismissal ret 12-29-72.
 Filed deft's memorandum of law in support of motion for dismissal.
 Filed Order that the deft having moved to dismiss the complaints per to Rule 12(b) the court hereby appoints Wm. Hellerstein, Legal Aid Society, Prisoners' Rights Project, 119 Fifth Ave, N.Y.C. to represent pliffs in these actions and directs that oral argument on deft's motion be heard on 1-26-73 at 2:00PM. KNAPP, J. (also in 72Civ4750, 72Civ4751 and 72 Civ 4771)
 Filed Deft. answers to plff. interrogatories.
 Filed affidavit of Pedro Arroyo in opposition to deft's motion for summary judgment.
 Filed deft's amended notice of motion granting summary judgment.
 Filed Memo-Endorsed on deft's motion Re: Summary Judgment: Motion, denied for the reasons stated in open court on 4-5-74. Knapp, J.
 Filed Pliffs Amended Complaint. Summons Issued.
 Filed Suppl. Summons. Served:
 Benjamin Malcolm, Commissioner of Correction by Mr. Husband, Legal Div. on 4/18/74
 Arthur Rubin, Warden, Manhattan House of Detention by Jim Hickey Depy Dir. of Operations on 4/18/74
 Ralph Sumowitz by Jim Hickey on 4/18/74
 Patrick Magner by " " " " " "
 Kenneth Ferguson by " " " " " "
 Constantine Mellon by Mr. Husbands, Legal Div. 4/18/74
 Paul Feltman by Jim Hickey, Depy Dir. Operations, 4/18/74
 Joseph Ochman by " " " " " "
 Roy Schuh " " " " " "
 Dr. Karp " " " " " "
 Filed ANSWER to Amended complaint by deft's Malcolm, Rubin, Scharfer, A.P.B. Sumowitz, Magner, Ferguson, Mellon, Feltman, Ochman, & Schuh.
 Filed pliff's affidavit & notice of motion to compell deft's to produce documents ret. 6-21-74.
 Filed pliff's memorandum of law in support of motion ret. 6-21-74.
 Filed " Suppl. Interrogs to Defts. Scharfer, Sumowitz, Magner, Ferguson, Mellon, Feltman, Ochman, & Schuh and Karp.
 Filed Order that deft's shall on or before 8-21-74 permit pliff's counsel to inspect & copy each & every one of the documents, so requested & serve & file a full & complete answer to interrogs. as indicated. Knapp, J.
 Filed Memorandum & order #41085: In compliance with our order, the deft's have produced the requested documents & submitted for in camera inspection the department of corrections' "Emergency plan." which is designed to "cope with a disturbance or, insurrection in any area" of the Manhattan House of Detention. We have concluded that the pliff's are entitled to the following, excerpts as indicated. So ordered. Knapp, J.
 Filed pliff's answers to pliff's interrogs.
 Filed stip & order that actions 72-4750, 4751 & 4771 are consolidated with this action for all purposes. So ordered. Knapp, J.

BEST COPY AVAILABLE

DATE

PROCEEDINGS

PAGE #2

Nov.1-74 Filed deft's interrogs addressed to each of the plttf's.
Nov.1-74 Filed deft.J.Ochmann answers to interrogs.
Nov.1-74 Filed deft.C. Mellon answers to interrogs.
Nov.1-74 Filed deft. P.M.Schaefer answers to interrogs.
Nov.1-74 Filed deft. R.M.Schuh answers to interrogs.
Nov.1-74 Filed deft. R.Sunowitz answers to interrogs.
Nov.1-74 Filed deft.P.Feltman answers to interrogs.
Nov.1-74 Filed deft.P. Magner answers to interrogs.
Dec.11-74 Filed deft.K.Ferguson answers to interrogs.
Jun.30-76 Filed affidavit of M.M.Smith in support of application for a writ of habeas corpus, ~~for~~ for Pedro Arroyo.
Jun.30-76 Filed affidavit of M.M.Smith in support of the application for a writ of habeas corpus for Christopher McCormack.
Jul.12-76 Before Knapp, J. Jury trial begun.
Jul.13-76 Trial continued.
Jul.14-76 " " & case dismissed.
Jul. 23-76 Filed Judgment: Adjudged that the amended complaint on behalf of plttf's THOMAS & DENNIS is dismissed for failure to prosecute. The amended complaint on behalf of plttf's Arroyo & McCormack & against the deft's is dismissed for reasons stated by the court. Knapp, J. Judgment Ent. Clerk. m/n Ent. 7-26-76.

Page 30

JUDGE PIERCE

FILED
U.S. DISTRICT COURT

NOV 9 11 23 AM '72
S.D. OF N.Y.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

72 CIV. 475D

CHRISTOPHER McCORMACK, Plaintiff

-v-

Warden PETER SCHAEFER, Defendant.

Upon reading the annexed affidavit of Christopher
McCormack requesting that he be permitted to file his
complaint without

prepayment of fees or costs or security therefor, and it
appearing to the Court that this application should be
granted, it is

ORDERED, that he be and hereby is permitted to
proceed in forma pauperis without prepayment of fees or
costs or security therefor, in accordance with Title 28,
United States Code, Section 1915(a).

Dated: New York, N. Y.

[Signature] 6, 1972

Chief Judge

[Signature]
U. S. D. J.

Honorable Court of the State of New York
County of New York
Chris topher W. Longmarch
Plaintiff

FILED
U.S. DISTRICT COURT
NOV 9 11 23 AM '72
S.D. OF N.Y.

-VS-
Wonders, Peter Schaefer
Defendant

Affidavit of
POVERTY

72 CIV. 475

The above named person in this affidavit,
gives pursuant to Title 28, Section 1915, asking leave
to proceed in forma pauperis.

1) The above named ask the clerk of this Court,
to pay all cost for this motion.

Wherefore the above named is confined in
Marshall's House of Detention and has no
way of paying the fee for the above motion.

Therefore the above named prays upon
the mercy of the Court to grant this
affidavit.

Respectfully Submitted
Christopher McCormac

Sworn to before me this 3 day
of Oct. 1972

1) Theodore E. Scott

THEODORE E. SCOTT
Notary Public, State of New York
No. 00-3559500
Qualified in Bronx County
Commission Expires March 30, 1973

U. S. District Court

Southern District

Christopher M. Leacock
Plaintiff

vs
- US -

Warden Peter Schaefer
Defendant

State of New York

County of New York

ss

First Complaint

To the United States District Court:

The petition of Christopher M. Leacock respectfully alleges and shows:

That where the plaintiff in the above title action and that he respectfully request that the above plaintiff be permitted in the above application in person in that he is a poor person within the meaning of Federal Statute.

Plaintiff makes this application under title 42, section 1983 of U.S. Code.

Despite the fact that plaintiff has never violated any of the rules of the institution of which defendant is warden, yet he has been made to suffer the punishment of being grossed, having scars upon his eyes and hands.

On September 12, 1961, when Peter Schaefer and a number of officers came on the floor where plaintiff was confined to his cell, and they had charged the cell & opened the door to go to the area where the plaintiff was

long confined, knowing that plaintiff and a number of
inmates were in the area. Since the structure in which
plaintiff is long confined is without adequate ventilation,
the use of tear gas under these circumstances is
tantamount to cruel and unusual punishment. Furthermore
plaintiff would like to mention that gas has been used
in international warfare, therefore why should plaintiff
be subjected to a form of punishment that is considered
inhuman & by all civilized nations.

Wherefore plaintiff prays that a Judgment be
issued that a writ be granted to determine the
validity of plaintiff's suit, and that defendant Schofer
be made to pay to plaintiff damages in the sum of
\$20,000 and that he be made to cease inflicting the
above mentioned punishment upon plaintiff and
inmates.

Respectfully Submitted
Christopher McCormack

Signed & affirmed on this 3 day
of Oct. 1972
Theodore E. Scott

THEODORE E. SCOTT
Notary Public, State of New York
No. 32-3569500
Qualified in Bronx County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

72 CW. 4724

PEDRO ARROYO, Plaintiff,

-v-

PETER SCHAEFER, Defendant

FILED
U.S. DISTRICT COURT
NOV 8 11 45 AM '72
S.D. OF N.Y.

Upon reading the annexed affidavit of Pedro Arroyo

requesting that he be permitted to file his

complaint

without

prepayment of fees or costs or security therefor, and it
appearing to the Court that this application should be
granted, it is

ORDERED, that he be and hereby is permitted to
proceed in forma pauperis without prepayment of fees or
costs or security therefor, in accordance with Title 28,
United States Code, Section 1915(a).

Dated: New York, N. Y.

, 197

Chief Judge

U. S. D. J.

U.S. District Court
Southern District

JUDGE KNAPP

72 CIV. 4724

Pedro Arroyo
Plaintiff
vs.
Peter Schaffer
Defendant

Affidavit of Pedro

FILED
U.S. DISTRICT COURT
NOV 8 11-45 AM '72
S. 1972

State of New York } ss
County of New York }

To the United States District Court:

The petitioner of Pedro Arroyo Respectfully shows:

That when he was taken to prison, in front of you, he was asked to sign a statement, which he refused to do, and he is incarcerated in the House of Detention and has no means of any financial help.

Therefore he prays that the money of his family be made all necessary costs and forwarded to all people and places necessary.

Thank you!

Respectfully Submitted

Pedro Arroyo

State of New York }
County of New York }
Theodore E. Scott
Notary Public

THEODORE E. SCOTT
Notary Public, State of New York
No. 03-3569500
Qualified in Bronx County
Commission Expires March 30, 1973

U.S. District Court
Southern District

Peter Amoye
Plaintiff

vs

Peter Schaefer
Defendant

Civil Complaint

State of New York } ss
County of New York }

To the United States District Court:

The petition of Peter Amoye Respectfully alleges and shows:

that he is the Complainant in the above
titled action and that he respectfully requests that
this civil Complaint be accepted as the above application
in forma pauperis in that he is a poor person within
the meaning of Section 1, Statute.

Complainant makes this application under
Title 42, Section 1933 of U.S. Code.

Despite the fact that Complainant has never
violated any of the rules of the institution of which
defendant is the warden, he has made to suffer the
punishment of long prison, having served years in
his eyes and lungs.

On September 12, 1942, defendant Schaefer
and a number of officers came on the floor where
Complainant was confined, to call and defendant
directed the prison warden's officers to spray gas in
the area where Complainant was being confined,
knowing this Complainant is a sufferer of asthma
and in the area. Since the structure in which
Complainant is being confined is without adequate
ventilation, the use of gas was under the
circumstances is the means to cause and caused

punishment. Again the Complainant would
like to mention that that has the doors published
in international warfare, systems we should
Complainant be put into it as a punishment
that is considered in law by all civilized nations.

Wherefore Complainant prays that a
Subpoena be issued that a trial be conducted to
set aside the rights of Complainant's son,
and that defendant Schaffer be made to pay damages
to Complainant in the sum of \$10,000 and that he
be made to cease inflicting the above mentioned
punishment upon Complainant.

Respectfully Submitted

Pedro Arango

Signed & Sealed me this 27 day
of September, 1972

Theodore E. Scott

THEODORE E. SCOTT
Notary Public, State of New York
No. 03-3569500
Qualified in Bronx County
Commission Expires March 30, 1973

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

PEDRO ARROYO, JERRY THOMAS, CHRISTOPHER :
McCORMACK, LANGSTON DENNIS, :

Plaintiffs, :

-against- :

BENJAMIN MALCOLM, Commissioner of Correction :
of the City of New York, ARTHUR RUBIN, Warden :
Manhattan House of Detention for Men, PETER :
M. SCHAEFER, Former Deputy Warden in Command, :
RALPH SUMOWITZ and PATRICK MAGNER, Assistant :
Deputy Wardens, KENNETH FERGUSON, CONSTANTINE :
MELLON and PAUL FELTMAN, Captains, JOSEPH :
OCHMANN and ROY SCHUH, Correction Officers, :
DR. KARP, Institutional Physician, and JOHN :
DOES #1-10, Correction Officers, Manhattan :
House of Detention for Men, :

Defendants. :

- - - - -X

AMENDED COMPLAINT

JURISDICTION

1. Plaintiffs bring this action pursuant to 42 U.S.C. §1983 and 28 U.S.C. §1343 and 2201 to redress the deprivation by defendants, acting under color of state law, of plaintiffs' rights as secured by the Eighth and Fourteenth Amendments to the Constitution of the United States. Defendants are responsible for the unlawful tear gassing inflicted upon plaintiffs in September, 1972, as herein alleged with more particularity, and plaintiffs seek declaratory and injunctive relief, and punitive and compensatory damages for injuries resulting therefrom.

JURISDICTION

1. Plaintiffs bring this action pursuant to 42 U.S.C. §1983 and 28 U.S.C. §1343 and 2201 to redress the deprivation by defendants, acting under color of state law, of plaintiffs' rights as secured by the Eighth and Fourteenth Amendments to the Constitution of the United States. Defendants are responsible for the unlawful tear gassing inflicted upon plaintiffs in September, 1972, as herein alleged with more particularity, and plaintiffs seek declaratory and injunctive relief, and punitive and compensatory damages for injuries resulting therefrom.

PARTIES

2. Plaintiffs are each adult citizens of the United States. At all times referred to in this complaint they were

detained at the Manhattan House of Detention for Men (the "Tombs"), New York, New York , awaiting trial on criminal charges.

3. Defendants are adult citizens of the United States and residents of the State of New York. Defendant Malcolm is sued individually and in his official capacity as an employee of the Department of Correction of the City of New York. Defendant Rubin is sued solely in his official capacity as an employee of the Department of Correction of the City of New York. All other defendants are sued solely in their individual capacities.

4. Defendant BENJAMIN J. MALCOLM, is and was at all times referred to in this complaint, Commissioner of Correction of the City of New York. He is the chief administrative officer of the New York City Department of Correction and is responsible for the maintenance and operation of all New York City correction facilities.

5. Defendant RUBIN is the Warden of the Tombs. As such his duties include ensuring proper care and treatment of the inmates in the Tombs and proper compliance with the rules and regulations of the Department of Correction by employees under his control. (Dept. of Corr. Rules and Regs. §3.35).

6. Defendant SCHAEFER was, at all times referred to in this complaint, Deputy Warden in Command of the Tombs. As such, his duties were the same as those of defendant RUBIN.

7. Defendants RALPH SUMOWITZ and PATRICK MAGER were, at all times referred to in this complaint, Assistant Deputy Wardens at the Tombs.

8. Defendants KENNETH FERGUSON, CONSTANTINE MELLON and PAUL FELTMAN were, at all times referred to in this complaint, Captains of the New York City Department of Correction assigned to the Tombs.

9. Defendant JOSEPH OCHMANN and ROY SCHUH were, at all times referred to in this complaint, Correction Officers in the New York City Department of Correction assigned to the Tombs.

10. Defendant KARP was, at all times referred to in this complaint, a physician retained by the New York City Department of Correction to provide medical assistance to inmates at the Tombs.

11. Defendants JOHN DOES, #1-10 were, at all times referred to in this complaint, employees of the New York City Department of Correction assigned to the Tombs who participated in the actions hereinafter alleged and whose names are unknown to plaintiffs at this time.

STATEMENT OF CLAIM

12. On September 12, 1972 plaintiffs were housed in the general detainee population on the fifth floor of the Tombs, in the A section.

13. At about 12 noon on that date, all of the detainees of A section were locked in their cells except Lloyd Hughes, who remained in the lock-out corridor adjacent to the cells on the lower tier.

14. Mr. Hughes, who was being housed on the fifth floor in "punitive segregation" status, had refused to enter his

cell unless he was given a pair of socks and permitted to make a telephone call.

15. After a brief effort by correctional personnel to obtain Hughes' cooperation in reentering his cell, defendants MELLON and OCHSMANN discharged a tear gas cannister at inmate Hughes. When he moved to avoid the gas they shifted the cannister to follow him. Clubs were also used by defendants to force Hughes into his cell.

16. Since plaintiff PEDRO ARROYO was housed in lower A section just opposite Hughes, the gas came into his cell. The other three plaintiffs felt the effects of the gas as it filled the entire section.

17. Defendants did not permit plaintiffs to leave the area where the gas was sprayed, either before or after its use.

18. The gas caused inter alia, a stinging sensation which brought tears to plaintiffs' eyes, made their noses run and caused a choking, constricted sensation in their throats and upper chests.

19. After the gassing defendants refused to open any windows despite repeated requests by plaintiffs and other detainees. Plaintiffs were not provided with changes of clothing nor were they permitted to take showers at this time.

20. Defendants refused to afford plaintiffs any medical attention on September 12, 1972 despite plaintiffs' repeated requests.

21. Upon information and belief, defendant KARP witnessed the tear-gassing. He did not examine or assist plaintiffs in any way.

22. As late as four o'clock that afternoon, the guards assigned to plaintiffs' section were still wearing gas masks to protect themselves.

23. As a result of the aforesaid gassing, plaintiffs suffered severe mental and emotional pain, were subjected to severe physical pain and discomfort, and received severe physical injuries.

24. On information and belief, tear-gas is routinely used in the Tombs by defendants and other Correction Department employees with reckless disregard for the well being of innocent bystanders such as detainees in plaintiffs' position.

25. Defendants knew or should have known of the unlawful tear-gassing experienced by plaintiffs and all, through either reckless, willful or wrongful failure to fulfill their duties and responsibilities to plaintiffs, are directly and solely responsible for the injuries resulting from said unlawful punishment.

26. Defendants unnecessary and indiscriminate use of tear-gas and their failure to take subsequent measures to reduce or limit the impact of the gas upon plaintiffs deprived plaintiffs of their right to be free from cruel and unusual punishment as guaranteed by the Eighth Amendment and of their right to be free from the infliction of harm without due process of law as guaranteed by the Fourteenth Amendment.

27. There is between the parties an actual controversy and plaintiffs are threatened with irreparable injury in the future by reason of the unlawful acts of defendants. Plaintiffs have no plain or adequate remedy to redress the wrongs and unlawful acts herein complained of other than this action for declaratory and injunctive relief.

WHEREFORE, plaintiffs pray that this Court:

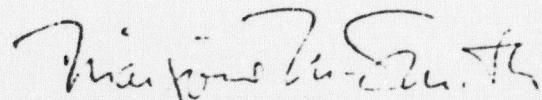
a) Adjudge and declare that defendants' acts described above violate plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution;

b) Issue an injunction prohibiting defendants from indiscriminately tear gassing plaintiffs;

c) Enter judgment against defendants for the sum of \$10,000 (ten thousand dollars) as compensatory damages, and \$10,000 (ten thousand dollars) as punitive damages;

d) Grant such other and further relief as the Court may deem just and equitable.

Dated: New York, New York
April 17, 1974



WILLIAM E. HELLERSTEIN
MARJORIE M. SMITH
PIERCE GERETY, Jr.
Attorneys for Plaintiffs
Legal Aid Society
Prisoners' Rights Project
119 Fifth Avenue
New York, New York 10003
212 - 677 - 4224

Knapp, J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PEDRO ARROYO, JERRY THOMAS, CHRISTOPHER
DE CORMACK, LANGSTON DENNIS,

Plaintiffs,

-against-

BENJAMIN MALCOLM, Commissioner of Correction
of the City of New York; ARTHUR RUBIN, Warden
Manhattan House of Detention for Men; REUBEN
M. SCHAFER, Former Deputy Warden in Command;
RALPH S. LOWITZ, and PATRICK WACHS, Assistant
Deputy Wardens; LAWRENCE FERGUSON, CONSTANCE
WELTON and PAUL FELTMAN, Captains; JOSEPH
SCHWARTZ and DON SCHUL, Correction Officers;
DR. KARP, Institutional Physician; and JOHN
DOES #1 - 10, Correction Officers, Manhattan
House of Detention for Men,

Defendants.

JUDGMENT
Consolidated Index No.
72 CIV. 4724
(WR)

This action having duly come on for trial on the 12th
day of July, 1976 before the Hon. Whitman Knapp, U.S.D.J., and a
jury, and the defendants having moved at the close of the plaintiffs'
case for the dismissal of the amended complaint, and upon due
consideration thereof, it is

ADJUDGED that the amended complaint on behalf of the
plaintiffs THOMAS and DENNIS be and hereby is dismissed for
failure to prosecute; and it is further

ADJUDGED that the amended complaint on behalf of the
plaintiffs ARROYO and DE CORMACK and against the defendants
MALCOLM, RUBIN, SCHAFER, LOWITZ, WACHS, FERGUSON, WELTON,
FELTMAN, SCHWARTZ, DOES and KARP be and hereby is dismissed for
the reasons stated by the Court.

BEST COPY AVAILABLE

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JUL 25 1976

Dated: New York, N.Y.
July 20, 1976

William H. Scott
U.S. District Judge

JUDGMENT ENTERED — 7/23/76

Raymond F. Burghardt
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PEDRO ARROYO, JERRY THOMAS, CHRISTOPHER :
MC CORMACK, LANGSTON DENNIS, :
 :
Plaintiffs, :
 :
-against- :
 :
BENJAMIN MALCOLM, Commissioner of Correction : NOTICE OF APPEAL
of the City of New York; ARTHUR RUBIN, Warden :
Manhattan House of Detention for Men; PETER : 72 Civ. 4724 (WK)
M. SCHAEFER, Former Deputy Warden in Command; :
RALPH SUMOWITZ, and PATRICK MAGNER, Assistant :
Deputy Wardens; KENNETH FERGUSON, CONSTANTINE :
MELLON and PAUL FELTMAN, Captains; JOSEPH :
OCHMANN and ROY SCHUH, Correction Officers; :
DR. KARP, Institutional Physician; and JOHN :
DOES #1 - 10, Correction Officers, Manhattan :
House of Detention for Men, :
 :
Defendants. :
-----X

NOTICE is hereby given that PEDRO ARROYO and CHRISTOPHER
McCORMACK, plaintiffs above named, hereby appeal to the United
States Court of Appeals for the Second Circuit from the final
judgment dismissing their amended complaint against defendants
SCHAEFER, SUMOWITZ, MAGNER, FERGUSON, MELLON, FELTMAN, OCHMANN,
SCHUH and KARP entered in this action on July 23, 1976.
August 18, 1976

WILLIAM E. HELLERSTEIN
MARJORIE M. SMITH
Attorneys for Plaintiffs
The Legal Aid Society
Prisoners' Rights Project
15 Park Row - 19th Floor
New York, New York 10038
[212] 577-3530